



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-R08-OAR- 2019-0049; FRL-9989-84-Region 8]

Clean Air Act Operating Permit Program; Petition for Objection to State Operating Permit for Suncor Energy, Commerce City, Colorado

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on a petition to object to a state operating permit.

SUMMARY: The EPA Administrator signed an order, dated December 20, 2018, denying the petition dated April 17, 2018, submitted by the Colorado Latino Forum, Colorado People's Alliance, Cross Community Coalition, Elyria and Swansea Neighborhood Association, the Sierra Club, and Western Resource Advocates (Petitioners). The Petition requested that the EPA object to the Clean Air Act (CAA) title V operating permit no. 96OPAD120 (Permit) issued by the Colorado Air Pollution Control Division (the Division) of the Colorado Department of Public Health and Environment for the Suncor Energy (U.S.A.) Inc., (Suncor) Commerce City Refinery, Plants 1 and 3 (the Refinery) in Adams County, Colorado. The Order constitutes a final action of the Petition.

ADDRESSES: You may review copies of the final Order, the Petition, and other supporting information at the EPA Region 8 Office, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view these documents. You may view the hard copies Monday through Friday, from 8:00 a.m. to 4:00 p.m., excluding federal holidays. The final Order

and Petition are also available electronically at: <https://www.epa.gov/title-v-operating-permits/title-v-petition-database>.

FOR FURTHER INFORMATION CONTACT: Donald Law, Air Program, U.S.

Environmental Protection Agency (EPA) Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-7015, law.donald@epa.gov.

SUPPLEMENTARY INFORMATION: The CAA affords the EPA a 45-day period to review and, as appropriate, the authority to object to, a title V operating permit proposed by state permitting authorities. Section 505(b)(2) of the CAA and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a title V operating permit within 60 days after the expiration of the EPA's 45-day review period if the EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period. Pursuant to sections 307(b) and 505(b)(2) of the CAA, a petition for judicial review of those portions of the Order that deny issues in the Petition may be filed in the United States Court of Appeals for the appropriate circuit within 60 days from the date this notice appears in the **Federal Register**.

The EPA received a petition from the Petitioners dated April 17, 2018, requesting that the EPA object to the issuance of the Permit to Suncor for the Refinery located in Commerce City, Colorado. The Petition alleges that the Permit fails to ensure compliance with applicable requirements under the CAA in that: (I) the Division cannot lawfully establish a federally enforceable hydrogen cyanide (HCN) emissions limit solely to abet Suncor in avoiding its Emergency Planning and Community Right-to-Know Act and Comprehensive Environmental

Response, Compensation, and Liability Act obligations; (II) the Division set an unlawful and arbitrarily high HCN emissions limit; (IIa) the HCN limit is based on an arbitrary estimate, rather than actual emission data; (IIb) the Division has not demonstrated that the HCN limit is at least as stringent as federal requirements; (IIc) Suncor's HCN emissions limit does not protect public health; and (III) the HCN emissions limit lacks adequate provisions to assure compliance.

On December 20, 2018, the Administrator issued an Order denying the Petition. The Order explains the EPA's basis for denying the petition.

Sections 307(b) and 505(b)(2) of the CAA provide that a petitioner may ask for judicial review of those portions of an order that deny issues raised in a petition. Any petition for review shall be filed in the United States Court of Appeals for the appropriate circuit no later than **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Dated: February 22, 2019.

Douglas Benevento,
Regional Administrator,
Region 8.

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